

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GLEN A. UNREIN)	
Claimant)	
VS.)	
)	Docket No. 231,826
BIG CREEK TOWNSHIP)	
Respondent)	
)	
and)	
)	
HARTFORD ACCIDENT & INDEMNITY)	
Insurance Carrier)	

ORDER

Claimant appealed the February 7, 2002, Final Order entered by Assistant Director Kenneth J. Hursh. The Board placed this appeal on its summary calendar. The Director of the Division of Workers Compensation appointed Stacy Parkinson of Olathe, Kansas to serve in place of Board Member David A. Shufelt, who recused himself from this claim.

Issues

This is a claim for a February 27, 1997 accident and injury which occurred while claimant was working for respondent. On December 10, 2001, claimant and claimant's counsel filed a Motion in which they requested Administrative Law Judge Bruce E. Moore be recused or to recuse himself from this claim and all other matters involving claimant's attorney.

Through a series of assignments, this claim was assigned to the Assistant Director to address the recusal requests. By Final Order dated February 7, 2002, Assistant Director Kenneth J. Hursh denied those requests, concluding that the allegations made against Judge Moore, if true, failed to establish that Judge Moore would not afford claimant an impartial hearing or claimant's attorney fair treatment in future proceedings.

Claimant and claimant's attorney contend the Assistant Director erred. In their brief to the Board dated March 21, 2001, they argue the facts cited in the affidavits filed in this claim would cause a reasonable person to doubt Judge Moore's impartiality in dealings with claimant's attorney. Accordingly, claimant and claimant's attorney request the Board to issue a blanket recusal to prevent Judge Moore from adjudicating any matters in which claimant's attorney appears.

Respondent and its insurance carrier did not file a brief with the Board and, therefore, the Board is without benefit of their contentions and arguments in this appeal.

Even before the filing of this appeal, the parties had settled this claim. On June 11, 2001, the parties appeared before Judge Moore and entered into an Agreed Award in which claimant was paid a lump sum amount for a 76 percent permanent partial general disability. In the settlement claimant's right to seek future medical benefits was left open "upon proper application to and approval by the Director of the Division of Workers Compensation," but claimant's rights to review and modification of the Agreed Award were foreclosed.

The issues before the Board on this appeal are:

1. Are the requests for recusal made by claimant and claimant's attorney moot due to the parties' June 11, 2001 settlement?
2. If not, should Judge Moore be removed from this claim or, in the alternative, removed from all matters in which claimant's counsel appears?

Findings of Fact and Conclusions of Law

After reviewing the entire file, the Board finds and concludes:

The request for an order removing Judge Moore from this claimant is moot. On June 11, 2001, claimant entered into an Agreed Award, effectively resolving all pending issues against respondent and its insurance carrier in this proceeding. Accordingly, the appeal should be dismissed.

WHEREFORE, the Board dismisses this appeal.

IT IS SO ORDERED.

Dated this _____ day of July 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger A. Riedmiller Attorney for Claimant
 P. Kelly Donley, Attorney for Respondent and Insurance Carrier
 Kenneth J. Hursh, Assistant Director
 Philip S. Harness, Workers Compensation Director